THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 6745 of 2007

Oral order:

Even though the petitioners have filed this writ petition questioning the inaction of respondent No.1 in taking any action on the representations dated 13.10.2004, 08.11.2004, 26.12.2006 and 13.03.2007, they in fact, are questioning the promotion of respondent No.2 as Head Book Binder, made in the year 1994.

The learned counsel for the petitioners submits that respondent No.2 is not possessing the requisite qualifications of I.T.I. and National Apprenticeship Certificate, and as such, she could not have been promoted as Head Book Binder. He further submits that since respondent No.2 failed to produce the National Apprenticeship Certificate, as directed by respondent No.1 in his proceedings dated 25.07.1998, the promotion granted to respondent No.2 as Head Book Binder should be cancelled.

Respondent No.1 filed counter. The learned Standing Counsel for respondent No.1 reiterating the counter averments submitted that respondent No.2 was appointed as Book Binder in the scale of pay of Rs. 825-1200 on 04.10.1990 as per recruitment Rules. The Central Government issued instructions in 1993 to fill up all backlog vacancies reserved for S.Cs. and S.Ts. and take expeditious steps in that regard, and in terms of the said instructions, as respondent No.2 belongs to S.T. category, she was considered for promotion to the post of Head Book Binder which was reserved for S.T. category as an in-service candidate and was given promotion on 15.12.1994 on the basis of her experience in the post of Book Binder. He further submitted that the appointment of respondent No.2 was earlier challenged by one G.

Narayana, Book Binder in W.P. No. 4407 of 1995, and the same was dismissed holding that her promotion does not suffer from any irregularity or illegality. Hence, he submitted that the writ petition, filed by the petitioners which indirectly seeks to assail the promotion of respondent No.2 as Head Book Binder be dismissed.

Respondent No.2 also filed counter stating that she was promoted to the post of Head Book Binder in the backlog vacancies. While denying the contention of the petitioners that she does not possess the required qualifications submitted that as required by respondent No.1, pursuant to her promotion as Head Book Binder, she produced the National Trade Certificate. He contended that the writ petition filed by one other employee, assailing the promotion of respondent No.2 having been dismissed, the petitioners cannot seeking to assail the same once again in the writ petition, and prayed for its dismissal.

Heard the learned counsel for the petitioners, the learned Standing Counsel for respondent No.1 and the learned counsel for respondent No.2.

As stated above, the petitioners in the guise of assailing the action of respondent No.1 in not considering their representations, in fact, are assailing the promotion of the petitioner as Head Book Binder, on the ground that she does not possess the requisite qualifications i.e. National Apprenticeship Certificate. It is the case of respondent No.1 as well as respondent No.2, that respondent No.2 was promoted as Head Book Binder in the post reserved for S.T. category under the special recruitment drive in the year 1994. In fact, one employee by name G. Narayana, assailed the promotion of respondent No.2 as Head Book Binder by filing writ petition in W.P. No. 4407 of 1995, and this Court by order dated 21.03.003, having considered similar contention, particularly with regard to possessing of experience, held

that the criteria prescribed for promotion is only a technician trained in book binding, and since respondent No.2 is an I.T.I. Certificate and National Trade Certificate holder, the criteria of seven years is not applicable to her, and that as on the date of promotion i.e. 15.12.1994, respondent No.2 was fully qualified for promotion and recruitment to the post of Head Book Binder. This Court further held that the experience as contemplated in the criteria for promotion was applicable only in the case of persons who hare working as Book Binders and when they seek promotion having no academic qualifications, but not otherwise. Holding so, this Court dismissed the writ petition. From the order of this Court, it is clear that respondent No.2 was found to be possessing the required qualifications i.e. I.T.I. Certificate and National Trade Certificate, and as such, was eligible for promotion. The said order has attained finality. In fact, it is the case of the petitioner that she submitted these certificates as asked for by respondent No.1. However, the petitioners in this writ petition contends that since respondent No.2 did not produce the National Apprenticeship Certificate, as asked for by respondent No.1, her promotion as Head Book Binder, should be cancelled. This contention of the petitioners is misplaced. The petitioners except stating that respondent No.2 did not produce the National Apprenticeship Certificate, did not show any rule, which requires that for promotion to the post of Head Book Binder, the candidates should possess qualification of National Apprenticeship Certificate, is mandatory, and on the other hand, this Court in similar writ petition, filed by one other employee, found respondent No.2 to be having the requisite qualification for promotion as Head Book Binder, and as such, the petitioners cannot contend that since respondent did not produce the National Apprenticeship Certificate, her promotion as Head Book Binder, should be cancelled, and more so after lapse of more than 13

years from the date of promotion of respondent No.2 as Head Book Binder.

The writ petition being a frivolous and speculative one is liable to be dismissed, and is accordingly dismissed. No costs.

_____

N.V. RAMANA, J.

Date: 26th November 2007.
KSR